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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/706,294	11/03/2000	Jennifer Elizabeth Pozniak	14541.1	6744

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KIMBERLY-CLARK WORLDWIDE, INC.
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EXAMINER

ANDERSON, CATHARINE L

ART UNIT PAPER NUMBER

3761

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary

Application No.

09/706,294

Applicant(s)

POZNIAK ET AL.

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7,10,11,14-16,19,20,23-25,28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-16,19 and 20 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,10,11,23-25,28 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5-7, 10-11, 23-25, and 28-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Ando et al. (5,370,634).

With respect to claim 1, Ando discloses a pant-like, refastenable absorbent article 1, as shown in figure 1, which defines front and back waist regions 5A and 5C, and a crotch region 5B, as shown in figure 2. The absorbent article 1 comprises an absorbent chassis. A pair of opposed side panels 115 extend outward from the back waist region 5A, and are permanently attached at their first side margins to the side edges of the absorbent chassis in the back waist region 5A, as shown in figure 10. The second side margins of the side panels 115 are releasably attached to the side edges of the absorbent chassis in the front waist region 5C to form a releasable bond 15D. A fastener 16A is permanently attached to the second side margin of the side panels 115, as shown in figure 10, and the releasable joint is provided by the fastener 16A and the releasable bond 15D. The releasable bond 15D is an adhesive or ultrasonic bond, as disclosed in column 8, lines 11-15.

With respect to claim 2, the absorbent chassis comprises an outer cover 3, a bodyside liner 2, and an absorbent core 4, as shown in figure 9.

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With respect to claim 5, an attachment panel 18 is located on the exterior surface of the absorbent chassis, as shown in figure 10.

With respect to claim 6, the absorbent chassis includes in outer cover 3, and the fasteners 16 are fully capable of being engaged directly to the outer cover 3.

With respect to claim 7, the side panels 115 are stretchable in the lateral direction, as disclosed in column 7, lines 60-68.

With respect to claim 10, the fasteners 16 include a fastener ear 15E that is attached to the second side margin of the side panel 115, and at the point of attachment the fastener ear 15E extends inwardly, as shown in figure 9.

With respect to claim 11, the fastener ears 15E are stretchable in at least the lateral direction, as disclosed in column 8, lines 46-47.

With respect to claim 23, the article 1 further comprises a pair of opposed front panels 15C1, as shown in figure 7, which are permanently attached to the side edges of the absorbent chassis in the front waist region. The front panels 15C1 are connected to the rear panels 115 along a side seam to provide a releasable joint, the releasable joint comprising the fastener 16 and a releasable bond 15D.

With respect to claim 24, the absorbent chassis includes in outer cover 3, and the fasteners 16 are fully capable of being engaged directly to the outer cover 3.

With respect to claim 25, the side panels 115 are stretchable in the lateral direction, as disclosed in column 7, lines 60-68.

With respect to claim 28, the fasteners 16 include a fastener ear 15E that is attached to the second side margin of the side panel 115, and at the point of attachment the fastener ear 15E extends inwardly, as shown in figure 7.

With respect to claim 29, the fastener ears 15E are stretchable in at least the lateral direction, as disclosed in column 8, lines 46-47.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ando et al. (5,370,634) as applied to claim 1 above.

Ando discloses all aspects of the claimed invention with the exception of hook and loop type fasteners. Ando discloses tab fasteners comprising an adhesive, as disclosed in column 4, lines 41-42. Tab fasteners are well known in the art to comprise either adhesive or hook and loop material. It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the fasteners of Ando as hook and loop type fasteners, since hook and loop fasteners and adhesive fasteners are well known in the art as equivalents, and the selection of hook and loop fasteners would be within the level of ordinary skill in the art.

Allowable Subject Matter

Claims 14-16 and 19-20 are allowed.

Response to Arguments

Applicant's arguments with respect to claims 1, 2, 4-7, 10-11, 23-25, and 28-29 have been fully considered but they are not persuasive.

In response to the applicant's argument that Ando discloses side flaps that are designed to be torn, it is noted that the side flaps of Ando, as described in column 7, line 68 to column 8, line 6, comprise separate side flaps that are connected and able to be torn at the connected portion. In other words, Ando discloses side panels connected along a connected portion comprising the releasable bond 5D, as shown in figure 2, or 15D, as shown in figure 7, to form side flaps. In tearing the connected portion, it is the releasable bond that is torn, separating the side panels. Ando clearly discloses tearing the diaper at the connected portions (i.e. releasable bonds), not the side panels.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on (571) 272-4390. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CWA
cla
April 5, 2005



Larry I. Schwartz
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